

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA, No. C 12-4894 CW (PR)
Plaintiff,
v.
UNITED STATES DEPARTMENT OF
JUSTICE, FEDERAL BUREAU OF
INVESTIGATION,
Defendants.

STEVEN WAYNE BONILLA, No. C 12-5090 CW (PR)
Plaintiff,
v.
SUPERIOR COURT OF ALAMEDA
COUNTY, JEFFREY W. HORNER,
Defendants.

STEVEN WAYNE BONILLA, No. C 12-5091 CW (PR)
Plaintiff,
v.
UNITED STATES DEPARTMENT OF
JUSTICE, FEDERAL BUREAU OF
INVESTIGATION,
Defendants.

ORDER DENYING LEAVE TO
PROCEED IN FORMA
PAUPERIS; DISMISSING
ACTIONS; TERMINATING ALL
PENDING MOTIONS;
DIRECTING CLERK TO FILE
COPY OF ORDER IN C 08-
0471 CW

Plaintiff, a state prisoner proceeding pro se, seeks leave to
proceed in forma pauperis (IFP) in these three civil actions. The
Court previously informed Plaintiff that, in accordance with 28
U.S.C. § 1915(g), he no longer qualifies to proceed IFP in any
civil action he files in this Court. See In re Steven Bonilla,
Nos. C 11-3180, et seq. CW (PR), Order of Dismissal at 6:23-7:19.

1 The sole exception to this restriction is that Plaintiff may
2 proceed IFP if he "is under imminent danger of serious physical
3 injury." 28 U.S.C. § 1915(g). The plain language of the imminent
4 danger clause in § 1915(g) indicates that "imminent danger" is to
5 be assessed at the time of filing of the complaint. See Andrews v.
6 Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007).

7 Here, Plaintiff has not alleged facts that show he was in
8 imminent danger of serious physical injury at the time he filed
9 these complaints. Rather, in cases C 12-4894 and C 12-5091,
10 Plaintiff complains that the Department of Justice and the Federal
11 Bureau of Investigation have denied his FOIA request for documents
12 pertinent to challenging the validity of his criminal conviction.
13 He seeks a ruling from this Court requiring that he be provided
14 with the documents. In case C 12-5090, he complains that the judge
15 who presided over his criminal trial wrongly denied his request for
16 exculpatory evidence from the prosecution. He seeks a ruling from
17 this Court that the judge's ruling denied him a fair trial.

18 The fact that Plaintiff has been sentenced to death does not,
19 at this time, satisfy the imminent danger requirement. He is not in
20 imminent danger of execution because this Court has entered a stay
21 of execution in his pending federal habeas corpus action. See
22 Bonilla v. Ayers, No. C 08-0471 CW (PR), Docket no. 3.

23 Further, the relief Plaintiff seeks in these cases pertains
24 solely to his ongoing attempts to invalidate his conviction.
25 Therefore, such claims, if raised, must be brought by appointed
26 counsel in Plaintiff's pending federal habeas corpus action.

27 Accordingly, for the foregoing reasons, Plaintiff's requests
28 to proceed IFP are DENIED and these actions are hereby DISMISSED.

1 The Clerk of the Court shall terminate all pending motions,
2 enter judgment and close the files.

3 The Clerk shall file a copy of this Order in C 08-0471 CW.

4 IT IS SO ORDERED.

5 DATED: 11/8/2012


CLAUDIA WILKEN
United States District Judge